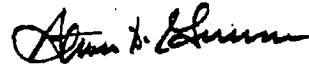


**EXHIBIT “A”**

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CLERK OF THE COURT

**COMP**

SCOTT POISSON, ESQ.  
Nevada Bar No. 10188  
CHRISTOPHER D. BURK, ESQ.  
Nevada Bar No.: 8976  
[Chris@Bernsteinslaw.com](mailto:Chris@Bernsteinslaw.com)  
**BERNSTEIN & POISSON**  
320 South Jones Boulevard  
Las Vegas, Nevada 89107  
Telephone: (702) 256-4566  
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ALEYDA DeMENA

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS,  
INC. and DOES 1 through 100; And  
ROE CORPORATIONS 101 through  
200.

Defendant.

CASE NO.:  
DEPT. NO.:

A- 12 - 658449 - C  
XXXI

COMPLAINT

Plaintiff, by and through her attorney of record, the law offices of  
**BERNSTEIN & POISSON**, hereby files this Complaint and alleges against the  
above-named Defendants, and each of them, as follows:

GENERAL ALLEGATIONS

1. At all times material herein, Plaintiff was and is a resident of Clark  
County, Nevada.
2. At all times material herein, Defendant Smiths owns and operates  
that certain business by virtue of the laws of the State of Nevada and is property

1 owner of said business located at 8050 South Rainbow Blvd in Clark County,  
2 Nevada.

3 3. At all times material herein, said Defendants, and each of them,  
4 owned, operated, controlled, and/or maintained, without limitation, a grocery  
5 store with parking areas and common areas for the purpose of carrying on  
6 business for profit in Clark County, Nevada

7 4. Upon information and belief, at all times material herein, Doe and  
8 Roe Defendants 101 through 200 were legal entities/residents of Clark County,  
9 Nevada, and authorized to do business by the State of Nevada. Furthermore,  
10 said Doe and Roe Defendants were employees, agents, or servants of  
11 Defendants, and each of them, and functioned and assisted in the operation,  
12 control and/or management of said premises.

13 5. The true names and capacities, whether individual, corporate,  
14 limited liability company; partnership; or otherwise of Defendants DOES I through  
15 X and ROE CORPORATIONS I through X, inclusive, are unknown to Plaintiff  
16 who therefore sues said Defendants by such fictitious names. On information and  
17 belief, Plaintiff alleges that the Defendants, and each of them, designated herein  
18 as a DOE INDIVIDUALS or ROE CORPORATION were responsible in some  
19 manner for the injuries sustained by the Plaintiff, on or about August 28, 2010  
20 resulting from the below stated slip and fall accident; and further that certain,  
21 without limitation, employees employed and/or engaged by said Defendants; or  
22 other patrons of said business; knew of or should have known of or caused a  
23 foreign substance to be left on the floor of the Defendant's property area resulting  
24 in Plaintiff's personal injury herein; and are therefore liable for all damages due to  
25 Plaintiff as alleged herein. Plaintiff will ask leave of court to amend this  
26 Complaint to insert the true names and capacities when the same is ascertained  
27 and to join such Defendants in this action. THE DOE DEFENDANT 1 is the  
28 unknown legal name for SMITH'S FOOD & DRUG CENTERS, INC.

Causes of Action

I.

Negligence/Premises Liability

6. Plaintiff re-alleges each of the foregoing allegations contained in paragraphs 1 through 5 as if fully set forth herein.

7. Upon information and belief, on or about August 28, 2010, Plaintiff was lawfully on the Defendants' premises as a patron.

8. Upon information and belief, while lawfully on said premises and location, Defendants had a duty to supervise and maintain said premises in a reasonably safe and suitable condition for its patrons, guests, invitees and others; and further to take any and all reasonable precautions to avoid the presence of dangerous and/or artificial conditions on or around said premises.

11. Upon information and belief, Defendants employed janitorial and maintenance personnel, management and other supervisory/security personnel for the purpose of supervising employees, patrons, guests and invitees and maintaining said property in a reasonably safe and suitable condition all under said Defendant's authority and control.

12. Upon information and belief, at said time and place, Defendants, despite having actual notice or constructive notice, that a dangerous condition existed on its premises; including that certain unreasonable amounts of the foreign substance caused by other patrons or said Defendants or its agent(s), over which said Defendants had control and authority, failed to enact proper safeguards and warnings to prevent serious bodily injury to Plaintiff, to wit: failing to warn and reasonably prevent a foreign substance to exist on the floor on or around the floor of the arena, resulting in Plaintiff slipping on said substance, all in breach of its duty of due care herein, including said business's duty to maintain said common area free of unreasonably dangerous conditions as property owner.

13. As a direct and proximate result of said negligence and/or reckless

1 conduct herein, as the case may be, Plaintiff has suffered personal injury,  
2 medical bills, general damages and economic damages in an amount in excess  
3 of \$10,000 subject to proof at trial.

4 14. While on said premises, Defendants had a duty to supervise and  
5 maintain its premises in a reasonably safe and suitable condition for its patrons,  
6 guests and invitees; and further to take any and all reasonable precautions to  
7 avoid the presence of said dangerous and/or artificial conditions on or around  
8 said premises and its common area(s). Upon information and belief, Defendants  
9 employed janitorial and maintenance personnel, management and other  
10 supervisory personnel for the purpose of supervising employees, patrons, guests  
11 and invitees and maintaining said property in a reasonably safe and suitable  
12 condition.

13 15. Said Defendants failure to warn of a known dangerous condition, or  
14 through exercise of reasonable diligence under the circumstances that which  
15 could have been discovered, and further failure to hire and adequately train  
16 suitable and fit employees to maintain said property in a safe and suitable  
17 manner has directly and proximately resulted in Plaintiff's personal injury and  
18 damages in an amount in excess of \$10,000 subject to proof at trial.

19 16. In addition to their direct liability, Defendants were and are  
20 vicariously liable for the negligent acts and/or omissions of its staff, agents,  
21 apparent agents, servants, or employees in the scope of employment herein; or  
22 such independent contractors within said Defendants control which in any  
23 manner caused or contributed to Plaintiff's injuries herein.

24 17. As a direct and proximate result of Defendants' negligence by and  
25 through its agents, employees and/or contractors as set forth, Plaintiff has  
26 sustained special damages, general damages, economic damages, lost income,  
27 lost wages and future damages in excess of \$10,000.00 subject to proof to trial.

28 **WHEREFORE,** Plaintiff expressly reserving his right to amend this

1 complaint at the time of, or prior to trial, prays for judgment against the  
2 Defendants, and each of them, as follows:

- 3 1. For General, Special Damages sustained by Plaintiff in a  
4 sum in excess of \$10,000.00;
- 5 2. For Attorney's Fees and Costs of suit incurred herein;
- 6 3. For interest at the statutory rate;
- 7 4. For such other relief as this Court deems appropriate.

8 Dated this 7 day of March, 2012.

10 **BERNSTEIN & POISSON**

11  
12  
13 **CHRISTOPHER D. BURK, ESQ.**  
14 Nevada Bar No.: 8976  
15 320 South Jones Blvd.  
16 Las Vegas, Nevada 89107  
17 (702) 256-4566  
18 Chris@Bernsteinslaw.com  
19 Attorneys for Plaintiff  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SUMM**

**CHRISTOPHER D. BURK, ESQ.**

Nevada Bar No.: 8976

**BERNSTEIN AND POISSON LLP**

320 S. Jones Boulevard

Las Vegas, Nevada 89107

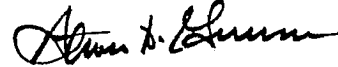
Telephone: (702) 256-4566

Facsimile: (702) 256-6280

Attorney for Plaintiff

**ORIGINAL**

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CLERK OF THE COURT

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

**ALEYDA DeMENA**

Plaintiff,

vs.

**SMITH'S FOOD & DRUG CENTERS,  
INC. and DOES 1 through 100; And  
ROE CORPORATIONS 101 through  
200**

Defendant.

**CASE NO.: A658449**

**DEPT. NO.: XXXI**

**SUMMONS**

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST  
YOU WITHOUT YOUR BEING HEARD, UNLESS YOU RESPOND WITHIN 20  
DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT:** A civil Complaint has been filed by the Plaintiff against  
you for the relief set forth in the Complaint.

**SMITH'S FOOD & DRUG CENTERS, INC.**

1. If you intend to defend this lawsuit, within 20 days after this Summons is  
served on you, exclusive of the day of the service you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal  
written response to the Complaint in accordance with the rules of the Court with the  
appropriate filing fee.

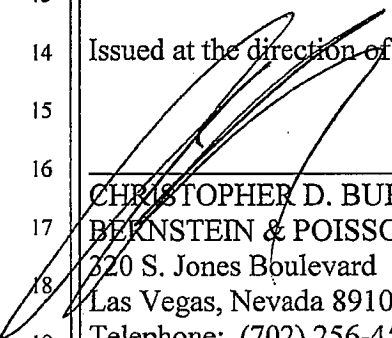
1           b.       Serve a copy of your response upon the attorney whose name and address  
2 is shown below.

3           2.       Unless you respond, your default will be entered upon application of the  
4 Plaintiff and this Court may enter a judgment against you for the relief demanded in the  
5 Complaint, which could result in the taking of your money or property, or other relief  
6 requested in the Complaint.

7           3.       If you intend to seek the advice of an attorney in this matter, you should  
8 do so promptly so that your response may be filed on time.

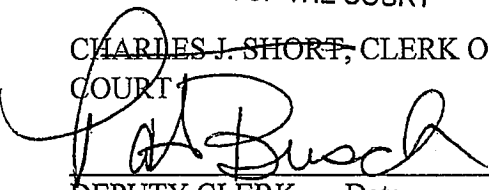
9           4.       The State of Nevada, its political subdivisions, agencies, officers,  
10 employees, board members, commission members and legislators, each have 45 days  
11 after service of this Summons within which to file an Answer or other responsive  
12 pleading to the Complaint.

13  
14 Issued at the direction of:

15  
16   
17 CHRISTOPHER D. BURK, ESQ.  
18 BERNSTEIN & POISSON  
19 320 S. Jones Boulevard  
20 Las Vegas, Nevada 89107  
Telephone: (702) 256-4566  
Facsimile: (702) 256-6280  
Attorney for Plaintiff.

STEVEN D. GRIERSON  
CLERK OF THE COURT

CHARLES J. SHORT, CLERK OF THE  
COURT

  
DEPUTY CLERK      Date  
County Courthouse  
200 Lewis Avenue  
Las Vegas, Nevada 89155

21 **NOTE:** When service is by publication, add a brief statement of the object of the action.  
22 See Rules of Civil Procedure, Rule 4(b).  
23  
24  
25  
26  
27  
28



## AFFIDAVIT OF SERVICE

STATE OF NEVADA     )  
                                  )  
COUNTY OF CLARK    )

KEVIN R. SMITH, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday March 21 2012; 1 copy(ies) of the:

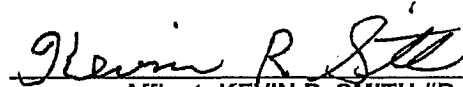
### SUMMONS; COMPLAINT

I served the same on Thursday March 22 2012 at 03:24PM by:

**Serving Defendant SMITH'S FOOD & DRUG CENTERS, INC BY SERVING CSC SERVICES OF NEVADA, INC., REGISTERED AGENT**

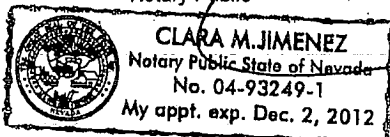
Substituted Service, by leaving the copies with or in the presence of: FRANCES GUTIERREZ, CUSTOMER SERVICE, ON BEHALF OF CSC SERVICES OF NEVADA, INC., REGISTERED AGENT, PURSUANT TO NRS 14.020, AS A PERSON OF SUITABLE AGE AND DISCRETION AT THE ADDRESS BELOW, WHICH ADDRESS IS THE ADDRESS OF THE REGISTERED AGENT AS SHOWN ON THE CURRENT CERTIFICATE OF DESIGNATION FILED WITH THE SECRETARY OF STATE Authorized Agent. at the Defendant's Business located at 2215-B RENAISSANCE DR, Las Vegas, NV 89119.

SUBSCRIBED AND SWORN to before me on this  
Friday March 23 2012 By the Affiant.



Affiant: KEVIN R. SMITH #Reg W/C #R038414  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638

Notary Public



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